

REMARKS

This paper is being filed in response to the Office Action mailed on May 11, 2007. Applicant's attorneys, Anastasia Zhadina and John J. Torrente, and applicant, Betty Birnbaum, wish to thank the Examiner for the courtesies extended to applicant and applicant's attorneys in the telephone interview conducted with the Examiner on August 30, 2007.

Based on the discussions during the telephone interview, applicant's claim 1 has been amended and dependent claims 26-29 have been added. As discussed in the telephone interview, applicant encloses a sample of applicant's product, "Ms. Wiggley," which embodies applicant's invention to clarify the features of applicant's invention and to assist the Examiner in understanding of applicant's invention. A check in the amount of \$100 to cover the additional claims fee is also enclosed. A petition for 1-month extension of time and a check for \$60 to cover the extension of time fee are also enclosed. Authorization is granted to charge our deposit account no. 03-3415 for any additional fee required for entry of this amendment.

In the Office Action, the Examiner has rejected applicant's claim 25 under 35 USC 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner has argued that it is unclear as to what is meant by "...edge...projected onto a plane situated in a facing relationship..." Applicant submits that the limitation "projected onto a plane situated in a facing relationship with the undulations" indicates the plane of the tool in which a viewer faces the undulations, such as the top view shown in FIG. 1 of applicant's drawings, or the opposing bottom view. As can be seen in applicant's FIG. 1, when the viewer faces the undulations, the further edge (indicated by reference number 19) appears straight. However, when the tool is viewed from its side, as shown in FIG. 3, so as to be perpendicular to the plane

situated in the facing relationship with the undulations, the further edge appears to have a sinuous curvature. Applicant's claim 25, thus, particularly points out and distinctly claims that the further edge appears straight when projected onto a plane situated in a facing relationship with the undulations. Applicant, therefore, believes that claim 25 is in compliance with 35 USC 112, second paragraph.

The Examiner has rejected applicant's claims 1, 3 and 25 under 35 USC 103(a) as being unpatentable over the Peterson (U.S. Patent No. 3,178,747) patent in view of the Killins (U.S. Patent No. D402,514) patent in view of the Darrin (U.S. Patent No. 1,211,098) patent. The Examiner has also rejected applicant's claims 1, 3 and 25 under 35 USC 103(a) as being unpatentable over the Killins patent in view of the Darrin patent in view of the Peterson patent and as being unpatentable over the Peterson patent in view of the Lawrence (U.S. Pat. No. 1,192,910) patent. Applicant's claim 4 has been rejected under 35 USC 103(a) as being unpatentable over the Killins patent in view of the Darrin patent and the Peterson patent and in further view of the Sheridan (U.S. Patent No. 1,538,521) patent. Applicant's claim 5 has been rejected under 35 USC 103(a) as being unpatentable over the Killins patent in view of the Darrin patent, the Peterson patent and the Sheridan patent and in further view of the Houghton (U.S. Patent No. 614,810) patent. Applicant's claims 4 and 5 have also been rejected under 35 USC 103(a) as being unpatentable over the Peterson patent in view of the Lawrence patent and in further view of the Sheridan patent. Applicant's claim 23 has been rejected under 35 USC 103(a) as being unpatentable over the Killins patent in view of the Darrin patent, the Peterson patent and the Meredith (U.S. Pat. No. 1,388,282) patent and as being unpatentable over the Peterson patent in view of the Lawrence patent in further view of the Meredith patent. The Examiner has found applicant's claim 24 to be allowable. Applicant has amended applicant's

independent claim 1 and with respect to this claim, and its respective dependent claims, the Examiner's rejections are respectfully traversed.

Applicant's independent claim 1 has been amended to further define applicant's invention. In particular, applicant's independent claim 1 has been amended to define the positions of the peak and valley portions of the S-shaped fingernail edge relative to the undulations of the hand-held tool. Applicant's amended independent claim 1 now recites that the valley of the S-shape of the fingernail edge (shown as 16A in FIG. 1) is in a first undulation (shown as 21A in FIG. 2) and the peak of the S-shape of the fingernail edge (shown as 16B in FIG. 1) is in a second undulation (shown as 21B in FIG. 2) of opposite direction to the first undulation and immediately following the first undulation. Applicant also added dependent claims 26-29 which further define the positions of the tool's edges relative to the undulations and partial undulations.

As applicant's undersigned attorney discussed with the Examiner in the telephone interview on August 30, 2007, applicant believes that the cited references do not teach or suggest the positions of the undulations of the flexible member relative to the portions of the fingernail edge, i.e. valley and peak of the S-shape. Instead, the Killins, Darrin and Lawrence patents disclose cleaning tools or scrapers that have a substantially planar configuration and do not include any undulations. The Peterson patent discloses a culinary scraper which has a substantially rectangular shape with rounded corners and which includes three undulations, or corrugations (20, 22 and 24) which extend from one lateral edge to the other. See FIGS. 1 and 2; Col. 2, lines 20-15. There is no mention in the Peterson patent, and there is no teaching or suggestion in any of the other cited references, as to the specific positions of the undulations and their positional relationship to the portions of the S-shape of the fingernail edge. Therefore,

the cited Killins, Darrin, Lawrence and Peterson patents fail to teach or suggest the valley of the S-shaped of the fingernail edge being in the first undulation and the peak of the S-shape of the fingernail edge being in the second undulation of opposite direction to the first undulation and immediately following the first undulation, and it would not have been obvious to a person of ordinary skill in the art, based on the teachings in these references, to combine these references so as to result in applicant's invention as recited in applicant's amended claim 1. Moreover, there is nothing added by the Sheridan, Meredith and Houghton patents to change this conclusion.

In view of the above, it is submitted that applicant's claims, as amended, patentably distinguish over the cited art of record. Accordingly, reconsideration of the claims is respectfully requested.

If the Examiner believes that an interview would expedite consideration of this Amendment or of the application, a request is made that the Examiner telephone applicant's counsel at (212) 790-9286.

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Respectfully submitted,



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